

AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, Colorado 80537-0599

PATENT APPLICATION

ATTORNEY DOCKET NO. 70020976-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Kheng G. Peh

Serial No.: 10/661,054

Examiner: M. Estrada

Filing Date: 09-12-2003

Group Art Unit: 2823

Title: METHOD FOR FABRICATING INTEGRATED EMITTER DEVICES AND INTEGRATED EMITTER DEVICES

COMMISSIONER FOR PATENTS
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Sir:

Transmitted herewith is/are the following in the above-identified application:

- () Response/Amendment () Petition to extend time to respond
() New fee as calculated below () Supplemental Declaration
() No additional fee (Address envelope to "Mail stop Non-Fee Amendments")
(X) Other: Response to Restriction Requirement (fee \$)

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X \$18	\$ 0
INDEP. CLAIMS		MINUS		= 0	X \$88	\$ 0
[] FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ \$300	\$ 0
EXTENSION FEE	1ST MONTH \$110.00	2ND MONTH \$430.00	3RD MONTH \$980.00	4TH MONTH \$1530.00		\$ 0
OTHER FEES						\$
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 50-1078. At any time during the pendency of this application, please charge any fees required or credit any overpayment to Deposit Account 50-1078 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 50-1078 under 37 CFR 1.16, 1.17, 1.19, 1.20 and 1.21. A duplicate copy of this sheet is enclosed.

"Express Mail" label no. EV482738723US

Date of Deposit 11-19-2004

I hereby certify that this is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

By

Typed Name: Phyllis Ewing

Respectfully submitted,

Kheng G. Peh

By

Christopher S. L. Crawford

Attorney/Agent for Applicant(s)

Reg. No. 51,586

Date: 11-19-2004



AGILENT TECHNOLOGIES, INC.
Legal Department, DL429
Intellectual Property Administration
P.O. Box 7599
Loveland, Colorado 80537-0599

Docket No.: 70020976-1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kheng G. Peh

Application No.: 10/661,054

Confirmation No.: 6729

Filed: September 12, 2003

Art Unit: 2823

For: METHOD FOR FABRICATING
INTEGRATED EMITTER DEVICES AND
INTEGRATED EMITTER DEVICES

Examiner: M. Estrada

RESPONSE TO RESTRICTION REQUIREMENT WITH TRAVERSE

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the restriction requirement set forth in the Office Action mailed October 20, 2004, Applicant elects Group I (claims 1-10, 19, and 20) for continued examination with traverse.

The Examiner has restricted the application between Group I (claims 1-10, 19, and 20) and Group II (claims 11-18) stating that the product of Group I can be made by another and materially different process. Specifically, the Examiner has stated that the product could be made by a process that does not comprise "attaching an emitter to the substrate within a recess; or having a recess [sic]." Office Action, page 2.

A product and a process of making a product are distinct when the product as claimed can be made by another and materially different process. MPEP § 806.05(f).

Applicant respectfully submit that the claim language does not support the Examiner's position.

Specifically, the method of claim 11 recites "attaching an emitter to the substrate within said recess" of a molded cup. The integrated optical emitter device of claim 1 recites "an emitter mounted to said substrate" and "a molded cup that surrounds said emitter and that is bonded to said substrate." Although claim 1 does not exactly parallel claim 11, the "mounted" element and the "surrounds" element of claim 1 are not materially different from the "attaching" element and "recess" element of claim 11. Accordingly, Applicant respectfully submits that the device of claim 1 cannot be made using a materially different process. Similarly, claim 19 recites a device having "an emitter mounted to said PCB" and "a molded cup that surrounds said emitter." For the same reasons, Applicant respectfully submits that the device of claim 19 cannot be made using a materially different process. The remaining claims of Group I depend either from base claim 1 or claim 19 and, hence, inherit all limitations of their base claim.

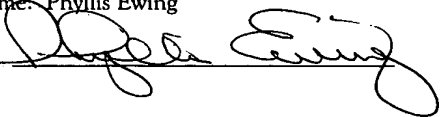
Accordingly, Applicant respectfully submits that a restriction requirement is not proper between Group I and Group II. Applicant requests the Examiner to withdraw the restriction requirement.

Applicant believes no fee is due with this response. However, if a fee is due, please charge Deposit Account No. 50-1078, under Order No. 70020976-1 from which the undersigned is authorized to draw.

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV482738723US, in an envelope addressed to: MS Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Date of Deposit: November 19, 2004

Typed Name: Phyllis Ewing

Signature: 

Respectfully submitted,

By 

Christopher S. L. Crawford
Attorney/Agent for Applicant(s)
Reg. No.: 51,586

Date: November 19, 2004

Telephone No. (214) 855-8378